

The Honorable Timothy W. Dore
Chapter 7
Hearing Date: March 21, 2018
Hearing Time: 9:30 AM
Hearing Location: Seattle, WA
Response Due Date: March 14, 2018

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

IN RE:

NICKOLAS THOMPSON AND REGINA
THOMPSON,

Debtors.

Bankruptcy No. 11-19450-TWD

Chapter 7

DEBTOR'S MOTION TO AVOID LIEN OF
MIDLAND FUNDING LLC UNDER 11
U.S.C. § 522(f) WITH NOTICE OF
HEARING

PLEASE TAKE NOTICE that this hearing is set to consider Debtors' Motion to Avoid Lien under § 522(f) will be held on March 21, 2018.

JUDGE:	The Honorable Timothy W. Dore
PLACE:	United States Courthouse, 700 Stewart Street, Room 8106 Seattle, WA 98101
DATE:	March 21, 2018
TIME:	9:30 AM
RESPONSE DATE:	March 14, 2018

IF YOU OPPOSE THE MOTION, you must file your written response with the Court Clerk and deliver copies on the undersigned no later than the response date, which is **March 14, 2018**.

If no response is timely filed and served, the Court may, in its discretion, grant the motion prior to the hearing, without further notice, and strike the hearing. Objections not on file and served as set forth may be deemed waived.

DATED this 14th day of February 2018.

HENRY, DEGRAAFF & MCCORMICK, P.S.

By: /s/ Christina L Henry
Christina L Henry, WSBA 31273

DEBTOR'S MOTION TO AVOID LIEN OF MIDLAND
FUNDING LLC UNDER 11 U.S.C. § 522(F) WITH NOTICE
OF HEARING - 1

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1 Motion

2 COMES NOW Regina Thompson a/k/a Regina Anderson and Nickolas Thompson, the
3 Chapter 7 Debtors in the above referenced case, by and through their attorney, Christina L Henry
4 of Henry & DeGraaff, P.S., and moves the court for an order pursuant to 11 U.S.C. §522(f) to
5 avoid the judgment lien held by Midland Funding LLC as successor in interest to Emerge on the
6 Raw Land located in Bemidji, MN 56601 – Lot 001 Blook 002 Sec 24 TWP 147 Range 003
7 (hereinafter “Raw Land”).

8 A. BACKGROUND.

9 The Debtors filed a voluntary petition pursuant to Chapter 13 of Title 11 the United
10 States Code on August 9, 2011, prior to the bankruptcy filing, Midland Funding LLC filed a
11 Judgment in Minnesota state court in Beltrami County under Judgment No. 04-CV-08-2226.
12 The judgment is clouding the title to the two above properties and may be impairing the Debtors’
13 exemptions.

14 Said Judgment appears as follows:

15 a) Judgment:

Doc Type	JUDGMENT
Grantor	Regina A Thompson a/k/a Regina Gina Gagnon
Grantee	MIDLAND FUNDING LLC as successor in interest to Emerge
Dated	April 15, 2008
CaseNo.	04-CV-08-2226
Amount of Judgment	\$1,757.80 plus interest
Legal Description	Lot 001 Blook 002 Sec 24 TWP 147 Range 003

16 The Debtors valued their Raw Land located Bemidji, MN 56601 at \$10,000 on the date
17 of their bankruptcy filing. Their Raw Land is owned free and clear without any consensual liens
18 or mortgages. The Debtors have taken a wildcard exemption for the fair market value of the
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1 property in the amount of \$10,000 under RCW § 522(d)(5). The judgment lien held by Midland
2 Funding LLC impairs Debtor's exemptions and can be avoided as under 11 U.S.C. §522(f).

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4 **B. ARGUMENT.**

5 Under 11 U.S.C. §522(f), a debtor may avoid the fixing of a lien on an interest of the
6 debtor in property to the extent that such lien impairs an exemption. Here, debtor has claimed an
7 wildcard exemption of \$10,000 under RCW §522(d)(5), and the existence of Midland Funding
8 LLC on the Raw Land impairs an exemption to which the Debtor would otherwise be entitled
9 under 11 U.S.C. §522(f).

10 **C. PRAYER FOR RELIEF**

11 WHEREFORE, Debtors pray for an order against Midland Funding LLC for the
12 cancellation and avoidance of the aforementioned judgment lien and for such additional or
13 alternative relief as may be just and proper.

14 DATED this 14th day of February 2018.

15 HENRY, DEGRAAFF & MCCORMICK, P.S.

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18 By: /s/ Christina L Henry
19 Christina L Henry, WSBA #31273
20 Attorneys for the Debtor
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